

Darrell William Wheeler
 Pauline Ellis, et al.
 P.O. Box 1916
 Redway, CA 95560
 Telephone: 707-223-0021

Co-Plaintiffs Darrell William Wheeler
 Pauline Ellis, et al.

FILED
 APR 27 2009
 RICHARD W. WIKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

**IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA
 NORTHERN DISTRICT OF CALIFORNIA**

SAN FRANCISCO DIVISION

DARRELL WILLIAM WHEELER individually;
 DARRELL WILLIAM WHEELER an
 American with a disability; PAULINE ELLIS,
 Individually and in her capacity as guardian
 For DARRELL WILLIAM WHEELER

Plaintiffs,

-V-

HILO MEDICAL CENTER, INC., a public
 ENTITY and Does 1 through 25; RONALD
 SCHURRA Individually and in his capacity as
 Chief Executive and in his capacity as Chief
 Executive Officer of Hilo Medical Center, Inc.,
 GARY SMITH, individually and in his capacity as
 Medical Doctor No. MD11631 (Oregon) for Hilo
 Medical Center; ROBIN A. EDWARDS,
 Individually and in her capacity as Medical Doctor
 No. MD11590 for Hilo Medical Center, Inc.;
 GERALD E. LAU, individually and in his
 Private capacity as Medical Doctor No.
 MD5030 DAVID Y. NAKAMURA, individually
 and in his capacity as Medical Doctor No.
 H10347 for Hilo Medical Center, INC.;
 QUEENS MEDICAL CENTER, a non-profit

CV 09 Case No.

**COMPLAINT FOR
 VIOLATION OF
 CIVIL RIGHTS**

**JURY TRIAL
 DEMANDED**

1826 BZ

Public benefit corporation; and DOES 1 through 25;))
STEVEN J. GARONS, individually and in his)
Capacity as Medical Doctor No. MD6176 for Hilo)
Medical Center Inc.; HAWAII AIR AMBULANCE,)
et al., MIHAE YU, individually and in her capacity)
as Medical Doctor No. MD4961 for QUEENS)
MEDICAL CENTER, Inc.; REHABILITATION OF)
THE PACIFIC Inc., DOES 1 through 25;)
MENG-CHEN ROE, individually and in her)
capacity as Psychiatrists No. MD8397 for the)
REHABILITATION OF THE PACIFIC INC.,)
And DOES 1 through 25; MANKWAN T. WONG,)
individually and in his capacity as Medical)
Doctor No. 11859 for REHABILITATION OF)
of THE PACIFIC, INC., and Does 1 through 25;)
LITNEUTRAL, LLC, et al, ROBERT WHITE,)
in its capacity as employee or surety agent for)
HILO MEDICAL CENTER, et al., JOHN DOE)
and RICHARD ROE, individually and in their)
capacity as Chief Executive Officers for HILO)
MEDICAL CENTER and QUEENS MEDICAL)
CENTER, INC., including REHABILITATION OF)
THE PACIFIC, Inc., the identity and number of)
whom is unknown to Plaintiffs, DOES 1 through 25;))
Daniel Veal, Levi Cabuntine,)

Defendants.)

Plaintiffs, DARRELL WILLIAM WHEELER and PAULINE ELLIS, real parties in
interest, hereby complain of defendants named above and hereby allege as follows:

I. Jurisdiction and Venue

1. This action arises under Title 42 of the United States Code, Section 1983.
Jurisdiction is conferred upon this Court by Title 28 of the United States Code
Sections 1343. The plaintiffs are residing within the judicial district and currently
receiving Federal Social Security payments and benefits, including the Humboldt

1 County Health and Human Services Funds, Med-Quest, and Medi-Cal within this
2 judicial district. Due to the injury of Plaintiff, the unlawful act and practices
3 occurred in the State of Hawaii and in the State of California, County of Humboldt,
4 which is within this judicial district.
5

6 **II. Intradistrict Assignment pursuant to Civil Local Rules 3-2(c) Plaintiffs claim**
7 **for care occurred within Humboldt county California Civil Local Rule 3-2 (d)**
8 **Humboldt.**

9 **III. Introduction**

10 1. This action arises out of the taking of Federal legal rights, medical
11 malpractice, personal injury, assault and battery, reimbursement for medical costs,
12 and fraud and other causes of action as pled on or about October 26, 2002 through
13 March 20, 2003, wherein Plaintiffs DARRELL WILLIAM WHEELER and
14 PAULINE ELLIS suffered severe physical, emotional, and financial damages at the
15 hands of the Defendants. (Defendant "DOES."). The Defendants actions have left
16 Plaintiff DARRELL WILLIAM WHEELER gravely disabled. Co-Plaintiff,
17 PAULINE ELLIS, registered Nurse CA# 552403 and HI# 46673, and care giver to
18 Plaintiff DARRELL WILLIAM WHEELER, has come to the end of the family's
19 financial resources. More is required.
20
21

22 **IV. Parties**

23 **A. Plaintiffs**

24 2. Plaintiffs DARRELL WILLIAM WHEELER and PAULINE ELLIS are,
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1 and at all times herein mentioned were, legal citizens of the United States and
2 residents of Humboldt County, California and Hilo, Hawaii. Plaintiff PAULINE
3 ELLIS, real party in interest and as guardian with/in Fiduciary for DARRELL
4 WILLIAM WHEELER, real party in interest; by Court order in Case No. 03-1-0005,
5 dated June 27, 2003 (Exhibit A.) and DARRELL WILLIAM WHEELER, an
6 alterable person in his individual and private capacity, bring this action on their own
7 behalf for injury suffered as a result of the willful, intentional, knowing and
8 oppressive acts of defendants.
9

10 **B. Defendants**

11
12 3. Defendant HILO MEDICAL CENTER, a Federal employer, Corporation,
13 No. 943282424, and DOES 1 through 25, hereinafter HILO, is a public entity duly
14 organized under the laws of the state of Hawaii and located in the city of Hilo, and
15 within the Ninth Circuit, Federal Judicial District.

16
17 4. Defendant RONALD SCHURRA, hereinafter SCHURRA, at all times
18 herein was the Chief Executive Officer for HILO, LITNEUTRAL and DOES 1
19 through 25 and was acting under the color of law and in the course and scope of his
20 employment for defendant HILO, LITNEUTRAL. Defendant SCHURRA is being
21 sued both individually and in his official capacity as Chief Executive Officer for
22 HILO, LITNEUTRAL. Defendant SCHURRA conspired with Defendant Doctors, in
23 the supervision and care of Plaintiff DARRELL WILLIAM WHEELER while in the
24 custody of defendant HILO, LITNEUTRAL.
25

26 5. Defendant GARY SMITH, hereinafter referred to as Doctor SMITH, at all

1 times mentioned herein was a Medical Doctor No. 11631 OR, and was acting under
2 color of law and believed to be in the course and scope of his employment for
3 Defendant HILO, LITNEUTRAL. Defendant Doctor SMITH is being sued
4 individually and in his official capacity as a Medical Doctor No. 11631 OR.
5 Defendant Doctor SMITH is believed to be a resident of Portland, Oregon.
6

7 6. Defendant Doctor ROBIN A. EDWARDS, hereinafter DOCTOR
8 EDWARDS, at all times mentioned herein was a Medical Doctor No. 11590
9 (medicaid # 500571) and was acting under the color of law and believed to be in the
10 course and scope of her employment for Defendant HILO, LITNEUTRAL.
11 Defendant Doctor EDWARDS is being sued individually and in her official capacity
12 as a Medical Doctor No. MD11590 (medicaid # 500571).
13

14 7. Defendant Doctor GERALD E. LAU, hereinafter referred to as Doctor
15 LAU, at all times mentioned herein was a Medical Doctor No. MD5030, (Medicaid
16 # 01568501) and was acting under color of law and believed to be in the course and
17 scope of his employment for Defendant HILO, LITNEUTRAL. Defendant Doctor
18 LAU is being sued individually and in his official capacity as a Medical Doctor No.
19 MD5030 (medicaid # 01568501).
20

21 8. Defendant DAVID Y. NAKAMURA, hereinafter DOCTOR
22 NAKAMURA, Medical Doctor No. H10347 (medicaid # 252350) at all times
23 mentioned herein was Chief of Staff for HILO MEDICAL CENTER,
24 LITNEUTRAL, and was acting under color of law in the scope of his employment
25 for defendant HILO, LITNEUTRAL. Defendant Doctor NAKAMURA is being sued
26

1 both individually and in his official capacity as Chief of Staff for Defendant HILO,
2 LITNEUTRAL. Defendant Doctor NAKAMURA is being sued in his official
3 capacity of Medical Doctor No. H10347, (medicaid # 252350).
4

5 9. Defendant QUEENS MEDICAL CENTER, INC., a Federal non-profit
6 public benefit corporation, No. 990073524 and DOES 1 through 25, hereinafter
7 referred to as Defendant QUEENS, is a public entity duly organized under the laws
8 of the STATE OF HAWAII and is located in Oahu, Hawaii, within the Ninth Circuit
9 Federal Judicial District.

10 10. Defendant Doctor STEVEN J. GARONS, hereinafter Doctor GARONS
11 at all times mentioned herein was a Medical Doctor No. MD6176 (medicaid
12 # 02923702) and was acting under the color of law and in the scope of employment
13 as a Medical Doctor, and as the head of the Anesthesiology Department, and believed
14 to be employed for Defendant HILO, LITNEUTRAL. Defendant Doctor GARONS
15 is sued both individually and in his official capacity as Medical doctor No., MD6176
16 (medicaid # 02923702).
17

18 11. Defendant HAWAII AIR AMBULANCE, hereinafter H.A.A., at all
19 times mentioned herein was the air ambulance service used to “patient dump” the
20 Plaintiff from Defendant HILO, LITNEUTRAL to Defendant QUEENS. Defendant
21 H.A.A.’S Federal Department of transportation number is No. 36-3531506.
22 Defendant H.A.A. was acting under the color of law and believed to be in
23 the course and scope of their employment for Defendant HILO, LITNEUTRAL.
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1 12. Defendant Doctor MIHEA YU, hereinafter Doctor YU, at all times
2 mentioned herein was a Medical Doctor No. MD4961 (medicaid # 018908-01) and
3 was acting under the color of law and believed to be in the course and scope of her
4 employment for Defendant QUEENS. Defendant Doctor YU is being sued
5 individually and in her official capacity as a Medical Doctor No. MD4961 (medicaid
6 # 018908-01).
7

8 13. Defendant REHABILITATION OF THE PACIFIC, INC., Federal
9 Employer No. 51-0160156 and Does 1 through 25, hereinafter referred to as
10 R.O.T.P., at all times mentioned herein was a public entity duly organized under the
11 laws of the State of Hawaii and is located in Honolulu, Hawaii, and is located within
12 the Ninth Circuit Federal Judicial District.
13

14 14. Defendant Doctor Meng-Chen ROE, hereinafter Doctor ROE, at all times
15 mentioned herein was a Medical Doctor No. MD8397 (medicaid # 508301) and was
16 acting under color of law and in the course and scope of her employment for
17 Defendant QUEENS. Defendant Doctor ROE is being sued individually and in her
18 official capacity as a Medical Doctor No. MD8397, (medicaid # 508301).
19

20 15. Defendant Doctor MANKWAN T. WONG, hereinafter Doctor WONG,
21 at all times mentioned herein was a Medical Doctor No. 11859 (medicaid #
22 50787402) and was acting under color of law and believed to be in the course and
23 scope of his employment for Defendant R.O.T.P. Defendant Doctor WONG is being
24 sued both individually and in his official capacity as medical Doctor No. 11859
25 (medicaid # 50787402).
26

1 16. At all times mentioned herein, Defendants Doctor GARY SMITH, MD,
2 License No. 11043; Doctor ROBIN A. EDWARDS, MD, License No. MD11590;
3 GERALD E. LAU, MD, License No. MD5030; Doctor DAVID Y. NAKAMURA,
4 MD, License No. H10347; Doctor STEVEN J. GARONS, MD, License No.,
5 MD6176; (hereinafter "DOCTORS") were believed to be employed in the enterprise
6 as licensed Medical Doctors for Defendant HILO, LITNEUTRAL, and Does 1
7 through 25. Defendant DOCTORS are sued individually and in the capacity as
8 licensed Medical doctors for Defendant HILO, LITNEUTRAL, and DOES 1 through
9 25. Defendant Doctor MIHEA YU, MD, License No. MD4961; Doctor
10 MANKWAN T. WONG, MD, License No. 11859; Defendant Doctor MENG-
11 CHEN ROE, MD, License No. MD8397; (hereinafter "DOCTORS") were believed
12 to be employed in the enterprise as licensed Medical Doctors for Defendant
13 QUEENS, and Does 1 through 25, a non-profit public benefit corporation.
14 Defendant QUEENS, and DOES 1 through 25, by engaging in the conduct described
15 herein, and defendant doctors acted under the color of law and in the course and
16 scope of their relationships for Defendants HILO, DOES 1 through 25, and
17 Defendant QUEENS, and Does 1 through 25. By engaging in the conduct described
18 here, defendant Federal doctors and Federal Flight Crew No. 36-3531506, under
19 F.A.A., exceeded the authority vested in them as doctors and F.A.A. members and
20 Surety under the United States Constitution, the California Constitution, and the
21 Hawaii Constitution, and as employees of Defendant HILO, LITNEUTRAL, and
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1 DOES 1 through 25, and Defendant QUEENS, et al., and DOES 1 through 25, and
2 Defendant R.O.T.P. and DOES 1 through 25.

3 17. Plaintiffs are ignorant of the true names and capacities of Defendants
4 DOES 1 through 25, inclusive, and therefore sue these defendants by such fictitious
5 names. Plaintiffs are informed and believe and thereon allege that each defendant so
6 named is responsible in some manner for the injuries and damages suffered by
7 Plaintiffs as set forth. Plaintiffs will amend the Complaint to state the true names
8 and capacities of Defendants DOES 1 through 25, inclusive, when they have been
9 ascertained.
10

11 18. At all times mentioned herein, each named and Doe Defendant was either
12 the agent or employee of the named defendant acting within the course and scope of
13 employment; or was acting under color of law and with the actual or implied
14 permission, consent, authorization, deliberate indifference and or approval of
15 Defendant HILO, LITNEUTRAL, DOES 1 through 25, and or QUEENS, Inc., and
16 DOES 1 through 25, and or R.O.T.P., Inc. and DOES 1 through 25, to the acts herein
17 described.
18

19 19. LITNEUTRAL, LLC, Robert White. LITNEUTRAL, LLC is believed to
20 be a limited liability company organized in the State of California. LITNEUTRAL,
21 LLC herein after "LITNEUTRAL" at all times mentioned herein claims to be a
22 surety agent for Defendant HILO. Defendant is being sued as an employee and or
23 surety agent, of Defendant HILO and Does 1 through 25.
24
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1 20. Robert White, is being sued as an individual and employee of Defendant
2 LITNEUTRAL, LLC.

3 21. Defendants DANIEL VEA and LEVI CABUNTINE are served in any
4 and all capacities. Defendants are in prison for hitting Plaintiff DARRELL
5 WILLIAM WHEELER in the back of the head with a rock on October 26, 2002.
6 Both fled the scene. They turned themselves in around October 30, 2002.
7

8 **V. Statement of Facts**

9 22. Plaintiff PAULINE ELLIS is the friend and guardian for Plaintiff
10 DARRELL WILLIAM WHEELER. Plaintiff PAULINE ELLIS has known Plaintiff
11 DARRELL WILLIAM WHEELER for approximately eighteen years. Both attended
12 nursing school together. On June 27, 2003, and for the next six (6) years after that
13 date Plaintiff PAULINE ELLIS has been the person providing professional nursing
14 care for Plaintiff DARRELL WILLIAM WHEELER'S needs twenty-four hours a
15 day, seven days a week.
16

17 23. On October 26, 2002, Plaintiff DARRELL WILLIAM WHEELER was
18 taken by ambulance to Defendant HILO for the treatment of a bump on the back of
19 Plaintiff's head. Plaintiff arrived conscious and able to squeeze your hand, and was
20 able to respond to questions. He had regained consciousness and was trying to stand
21 up after Plaintiff DARRELL WILLIAM WHEELER had been hit in the back of the
22 head with a rock.
23

24 24. The two Defendants, DANIEL VEA and LEVI CABUNTINE,
25
26

1 responsible for the assault, were sentenced to prison and are currently serving their
2 sentences. See (Exhibit E).

3 25. Prior to this assault, on both July 3, 2001 and September 27, 2002,
4 Plaintiff DARRELL WILLIAM WHEELER had been treated at Defendant HILO for
5 outpatient procedures. Defendant HILO'S Federal medical records clearly show
6 plaintiff DARRELL WILLIAM WHEELER was severely allergic to the drug
7 Penicillin. See (Exhibit B1).

8
9 26. On October 26, 2002, Plaintiff DARRELL WILLIAM WHEELER was
10 admitted and treated in the emergency trauma center at 2:30 p.m. at Defendant HILO
11 and Does 1 through 25. Plaintiff had his wallet with identification in his pants
12 pocket. Plaintiff DARRELL WILLIAM WHEELER is severely allergic to Penicillin.
13 The receiving licensed Emergency Room Medical Doctor was Defendant Doctor
14 SMITH, License No. 11043 (medicaid # 50787402). Defendant Doctor SMITH did
15 order the injection to Plaintiff DARRELL WILLIAM WHEELER with Kefzol at
16 6:00 p.m. on October 26, 2002 and again at 2:00 a.m. on October 26, 2002 with
17 Rocephin, after checking for allergies to Penicillin in the Federal hospital records.
18 The Federal record states in handwritten notes, "Nursing ER assessment notes allergy
19 to PCN @ anaphylaxis. Doctor Smith notes allergy", and gave the injection anyway
20 [Cephalosporin is a penicillin]. Plaintiff DARRELL WILLIAM WHEELER is
21 allergic to Penicillin.
22
23
24

25 27. Defendant Doctor SMITH ordered Plaintiff DARRELL WILLIAM
26 WHEELER to be transferred to Defendant QUEENS, per head injury protocol.

1 Defendant HILO'S neurologist was not on call this weekend in October of 2002.

2 28. Defendant Doctor SMITH transferred care and custody of Plaintiff
3 DARRELL WILLIAM WHEELER to Defendant Doctor EDWARDS on October 27,
4 2002 at 12:30 p.m. Defendant Doctor EDWARDS cancelled the air transfer that
5 would have allowed Plaintiff DARRELL WILLIAM WHEELER to [escape] to
6 Defendant QUEENS. Federal hospital records of Defendant Doctor EDWARDS
7 indicate, "DARRELL WILLIAM WHEELER is stable and breathing on his own,
8 CAT scan normal, no neuro trauma, no abnormalities, from CAT scan of cervical
9 spine."
10

11 29. Plaintiff DARRELL WILLIAM WHEELER was further damaged by the
12 care given to Plaintiff DARRELL WILLIAM WHEELER, while at Defendant HILO.
13 Plaintiff DARRELL WILLIAM WHEELER'S throat and speech are altered by
14 Defendant Doctor EDWARDS' negligence by not following Defendant HILO'S
15 protocol for head injury patient. One on one care was denied to Plaintiff DARRELL
16 WILLIAM WHEELER, which resulted in further loss to Plaintiff DARRELL
17 WILLIAM WHEELER.
18

19 30. Plaintiff PAULINE ELLIS arrived at Hilo hospital at approximately 5:00
20 p.m. - 6:00 p.m. on October 26, 2002. She was concerned after she found out what
21 happened to her friend, Plaintiff DARRELL WILLIAM WHEELER. Plaintiff
22 PAULINE ELLIS personally verbally explained to the emergency room staff that
23 Plaintiff "DARRELL WILLIAM WHEELER was severely allergic to Penicillin".
24
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26

1 The Defendant HILO emergency room staff assured Plaintiff PAULINE ELLIS that
2 they had received the information.

3
4 31. Defendant medical Doctor LAU was the surgeon on call in the
5 emergency room at Defendant HILO. Defendant Doctor LAU admitted Plaintiff
6 DARRELL WILLIAM WHEELER into the Intensive Care Unit. Defendant Doctor
7 LAU was not qualified to treat Plaintiff DARRELL WILLIAM WHEELER for head
8 trauma and became angry that he was pressured into admitting Plaintiff DARRELL
9 WILLIAM WHEELER. Defendant Doctor LAU elevated Plaintiff DARRELL
10 WILLIAM WHEELER as being stable and with a concussion.

11
12 32. Plaintiff DARRELL WILLIAM WHEELER was decompensating into
13 respiratory failure. Defendant Doctor LAU refused to treat patient Plaintiff
14 DARRELL WILLIAM WHEELER. Defendant Doctor LAU refused the calls from
15 ICU staff to treat Plaintiff DARRELL WILLIAM WHEELER, providing only
16 telephone orders. By Defendant Doctor LAU'S actions and in the care and custody
17 of Defendant Doctor LAU and Defendant HILO and LITNEUTRAL, Plaintiff
18 DARRELL WILLIAM WHEELER was denied the basic standard of care. Plaintiff
19 DARRELL WILLIAM WHEELER for thirty hours had no doctor visits, no
20 neurological consults, no anesthesiology consults, no cardiac consult, no follow up
21 labs of any kind. No treatment except nursing intervention. On October 28, 2002,
22 Plaintiff DARRELL WILLIAM WHEELER was Code Blue according to ICU staff.

23
24 33. Defendant Doctor LAU refused to treat Plaintiff DARRELL WILLIAM
25 WHEELER further and writes an order to transfer the care and custody of Plaintiff
26

1 DARRELL WILLIAM WHEELER to Defendant HILO's Doctor Pillai (deceased).
2 Doctor Pillai ordered the injection of Penicillin for Plaintiff DARRELL WILLIAM
3 WHEELER, with another order to inject Penicillin at 12:25 P.M on October 28,
4 2002. Doctor Pillai transferred care and custody by order to Defendant Doctor
5 NAKAMURA on October 29, 2002.
6

7 34. Defendant Doctor NAKAMURA, supervising for Defendant HILO the
8 care and custody of Plaintiff DARRELL WILLIAM WHEELER, did allow Penicillin
9 to be given three times. Zosyn was ordered on October 28, 2002 at 10:25 a.m. again
10 at 2:00 p.m. and again at 7:30 p.m. The Federal hospital records indicates "the Zosyn
11 noted penicillin allergy, and ordered penicillin allergy to be put into the Federal
12 hospital computer".
13

14 35. Defendant Doctor NAKAMURA became nervously aware to Plaintiff
15 PAULINE ELLIS (former Defendant HILO employee and registered nurse Hawaii
16 # 46673 and California # 554203) whistleblower and personal advocate for Plaintiff
17 DARRELL WILLIAM WHEELER was aware of the deliberate injections of
18 Penicillin and multiple assaults that were done with the intent to kill the Federal
19 Med-Quest patient.
20

21 36. Defendant Doctor NAKAMURA altered Defendant HILO'S hospital
22 Federal Med-Quest records to hide the outrageous acts and the other doctors
23 negligent errors.
24

25 37. Defendant Doctor NAKAMURA denied Plaintiff DARRELL WILLIAM
26 WHEELER'S basic life saving treatment. Plaintiff DARRELL WILLIAM
27

1 WHEELER was in full blown anaphylactic reaction to the seven injections of
2 Penicillin given to Plaintiff DARRELL WILLIAM WHEELER while in the care and
3 custody of Defendant HILO.

4
5 38. Defendant Doctor NAKAMURA further puts Plaintiff DARRELL
6 WILLIAM WHEELER's life in double jeopardy by air transferring by Defendant
7 H.A.A. to Defendant QUEENS. Doctor NAKAMURA failed to inform Defendant
8 H.A.A.'S Federal flight crew or Defendant QUEENS that Plaintiff DARRELL
9 WILLIAM WHEELER had allergies to penicillin and was in fact in full blown
10 anaphylactic shock as Plaintiff DARRELL WILLIAM WHEELER was "patient
11 dumped" onto Defendant QUEENS for a pneumothovax and atelectasis emergency.
12

13 39. Defendant Doctor NAKAMURA denied surrogate guardianship to
14 Plaintiff PAULINE ELLIS on October 30, 2002. Defendant Doctor NAKAMURA
15 was aware that HILO employee Plaintiff PAULINE ELLIS knew exactly what had
16 been done to her friend, Plaintiff DARRELL WILLIAM WHEELER. Plaintiff
17 DARRELL WILLIAM WHEELER was further denied advocacy in the scheme to
18 cover up the assaults and injuries, denying Plaintiff DARRELL WILLIAM
19 WHEELER with appropriate basic life saving treatments.
20

21 40. Defendant Doctor NAKAMURA met with the Defendant HILO peer
22 review. In attendance was defendant CEO of HILO, Mr. Robert Schurra. Patient
23 Plaintiff DARRELL WILLIAM WHEELER, who was Code Blue after being
24 assaulted repeatedly by the Defendant Doctors. Defendant HILO through its
25 Corporate officers/directors/doctors and made the Corporate decision to "patient
26

1 dump” the gravely ill Plaintiff DARRELL WILLIAM WHEELER onto Defendant
2 QUEENS medical center.

3 41. Defendant Doctor GARONS did conspire with the named Defendants on
4 October 28, 2002. Defendant Doctor GARONS was Defendant HILO’S head of the
5 anesthesiologist Department. Defendant Doctor GARONS enjoined the assaults by
6 failing to stop the events. Plaintiff DARRELL WILLIAM WHEELER was suffering
7 from anaphylactic shock from the repeated seven injections of Penicillin that Plaintiff
8 DARRELL WILLIAM WHEELER was severely allergic to.
9

10 42. Defendant Doctor GARONS supervised the ventilator that was breathing
11 for Plaintiff DARRELL WILLIAM WHEELER, as he could not breathe on his own
12 now. Doctor GARONS did set the ventilator pressure to high and blew a hole in
13 Plaintiff DARRELL WILLIAM WHEELER’S lung causing the lung to collapse
14 (pneumothorax and atelectasis). This created another life threatening assault and the
15 reason to “patient dump” Plaintiff DARRELL WILLIAM WHEELER. Defendant
16 HILO did not have a Pulmonologist on staff.
17

18 43. Defendant Doctor GARONS enjoined by Defendant Doctor
19 NAKAMURA with other Defendants provided false information and facts in notes
20 within the Federal Hospital Records (Med-Quest). Whistleblower and former
21 employee Plaintiff PAULINE ELLIS personally witnessed these events.
22

23 44. Defendant Doctor GARONS performed his Federal Doctor duties in such
24 a way that grossly denied Plaintiff DARRELL WILLIAM WHEELER the basic
25
26

1 standard of care and appropriate and humane treatment. Defendant Doctor
2 GARONS actions were cruel and unusual.

3
4 45. Defendant Doctor NAKAMURA ordered the Defendant H.A.A. air
5 ambulance to transfer Med-Quest patient Plaintiff DARRELL WILLIAM
6 WHEELER to Defendant QUEENS. Defendant Doctor NAKAMURA prepared the
7 transfer order for Plaintiff DARRELL WILLIAM WHEELER with a false diagnosis
8 to cover up the anaphylaxis shock that Plaintiff DARRELL WILLIAM WHEELER
9 was maliciously exposed to. On October 30, 2002 at 2:00 p.m., before the Defendant
10 H.A.A. air transfer, Defendant Doctor NAKAMURA did order an injection for
11 Plaintiff DARRELL WILLIAM WHEELER with Fortaz, a Penicillin type of drug.
12 Plaintiff DARRELL WILLIAM WHEELER is severely allergic to Fortaz. Seven
13 assaults by injection of Penicillin while at Defendant HILO.
14

15 46. Defendant H.A.A. enjoined the "patient dumping scheme". The Federal
16 Aviation Administration flight nurse recorded within the Federal Med-Quest and
17 F.A.A. records of patient Plaintiff DARRELL WILLIAM WHEELER transferred
18 from Defendant HILO to Defendant QUEENS. The Federal flight nurse was
19 unaware of Plaintiff DARRELL WILLIAM WHEELER'S Penicillin allergies. The
20 Federal medical records stated DARRELL WILLIAM WHEELER is not allergic to
21 Penicillin.
22

23 47. Defendant H.A.A. accepted the transfer order to Defendant QUEENS of
24 the comatose patient plan for Plaintiff DARRELL WILLIAM WHEELER and
25 helicopter ride, while he was critically unstable, from Defendant HILO to Defendant
26

1 QUEENS. Plaintiff DARRELL WILLIAM WHEELER was not breathing on his
2 own due to the assaults while at Defendant HILO. Plaintiff DARRELL WILLIAM
3 WHEELER's lung had collapsed, his eyes were bugging out of his head. The flight
4 crew accepted the gravely ill patient and agreed to "patient dump" Defendant
5 HILO'S problem, Plaintiff DARRELL WILLIAM WHEELER, onto Defendant
6 QUEENS.
7

8 48. Defendant H.A.A.'s flight crew and captain of the ship elected by their
9 own assessment of patient Plaintiff DARRELL WILLIAM WHEELER to aide and
10 abet in the scheme to patient dump Plaintiff DARRELL WILLIAM WHEELER onto
11 Defendant QUEENS.
12

13 49. Patient Plaintiff DARRELL WILLIAM WHEELER had spent four
14 hellish days of torture at Defendant HILO. The Federal flight crew made the
15 decision to move patient Plaintiff DARRELL WILLIAM WHEELER without
16 knowing for certain what drugs patient Plaintiff DARRELL WILLIAM WHEELER
17 was allergic to. Plaintiff DARRELL WILLIAM WHEELER had an established
18 medical record within Defendant HILO'S system of Federal Med-Quest records. The
19 Federal records clearly indicated that Plaintiff DARRELL WILLIAM WHEELER
20 was allergic to Penicillin. The Federal flight crew records failed to warn of the
21 allergy, continuing the course of conduct to Plaintiff DARRELL WILLIAM
22 WHEELER'S detriment.
23

24 50. Plaintiff PAULINE ELLIS, whistleblower, personally witnessed
25 Defendant Doctor NAKAMURA not communicate the known allergies of Plaintiff
26

1 DARRELL WILLIAM WHEELER to Defendants H.A.A. and QUEENS. In turn,
2 Defendant Doctor NAKAMURA falsified the Federal Med-Quest records while
3 employed at Defendant HILO. Defendant Doctor NAKAMURA telephoned Plaintiff
4 PAULINE ELLIS at home to explain the Defendant HILO'S official corporate policy
5 to employee PAULINE ELLIS, Registered Nurse HI # 46673 and California
6 # 554203 to debrief the traumatic events that Plaintiff PAULINE ELLIS had
7 witnessed firsthand. Defendant Doctor NAKAMURA knew he had a problem on his
8 hands by this conversation.
9

10 51. Defendant QUEENS accepted Federal Med-Quest patient Plaintiff
11 DARRELL WILLIAM WHEELER by order from Defendant HILO on October 30,
12 2002. Defendant Doctor YU was the receiving trauma physician that indirectly
13 assaulted Plaintiff DARRELL WILLIAM WHEELER. Plaintiff DARRELL
14 WILLIAM WHEELER was again misdiagnosed by Defendant Doctor YU.
15 Defendant Doctor YU chemically induced hypothyroidism as the treatment plan. By
16 misdiagnosing this care procedure, Defendant Doctor LAU created another life
17 threatening hypoxic assault. This was a secondary assault from the original assaults
18 from Defendant HILO and its employee Doctors and DOES 1 through 25.
19

20 52. Patient Plaintiff DARRELL WILLIAM WHEELER's Federal rights were
21 further violated by the lack of basic standard of care while in the custody of
22 Defendant QUEENS, et al. The hospital, Defendant QUEENS, failed to supervise its
23 employees and agents and Doctor YU. The Defendants caused patient Plaintiff
24 DARRELL WILLIAM WHEELER to sustain permanent, life altering injuries,
25
26

1 commonly referred to as contractures, leaving patient Plaintiff DARRELL
2 WILLIAM WHEELER's right hand and arm permanently insulted.

3 53. Plaintiff DARRELL WILLIAM WHEELER was further assaulted by
4 Defendant QUEENS, its staff employees, and Defendant Doctor YU by lack of basic
5 care. Plaintiff DARRELL WILLIAM WHEELER had to undergo major surgery to
6 cut Plaintiff DARRELL WILLIAM WHEELER's Achilles tendons in both ankles to
7 repair the contracted position of Plaintiff DARRELL WILLIAM WHEELER'S feet.
8 This surgery was performed so that Plaintiff DARRELL WILLIAM WHEELER'S
9 feet would look normal. The lack of basic standard of care by Defendant QUEENS
10 caused this condition. It has left Plaintiff DARRELL WILLIAM WHEELER unable
11 to walk or run as he once did.
12

13 54. Defendant QUEENS and DOES 1 through 25 and defendant Doctor YU
14 "patient dumped" patient Plaintiff DARRELL WILLIAM WHEELER onto
15 Defendant R.O.T.P. without a plan of care, no physical therapy, nothing. Plaintiff
16 DARRELL WILLIAM WHEELER was just rushed out.
17

18 55. Plaintiff DARRELL WILLIAM WHEELER was again "patient dumped"
19 onto Defendant R.O.T.P. Defendant Doctor ROE, physiatrist, chemically restrained
20 Plaintiff DARRELL WILLIAM WHEELER, rendering him unable, but not
21 incapable, of rehabilitation. Defendant R.O.T.P., its staff, and Doctor ROE placed
22 Plaintiff DARRELL WILLIAM WHEELER on so many drugs that they induced yet
23 another life threatening condition, thyrotoxicosis assault on Plaintiff DARRELL
24 WILLIAM WHEELER
25
26

1 56. Plaintiff DARRELL WILLIAM WHEELER was on 24 hour one on one
2 supervision for patient safety due to the mismanagement of the case and
3 inappropriate care received at Defendant R.O.T.P, QUEENS and HILO.
4

5 57. Plaintiff DARRELL WILLIAM WHEELER was denied the care and
6 supervision of a neurologist. Defendant R.O.T.P. thought it appropriate care to
7 provide Plaintiff DARRELL WILLIAM WHEELER with a physiatrist to oversee the
8 patient's neurological rehabilitation. This denied Plaintiff DARRELL WILLIAM
9 WHEELER the one chance of intensive acute rehabilitation.
10

11 58. Plaintiff DARRELL WILLIAM WHEELER was downgraded to skilled
12 nursing level of care prematurely and inappropriately due to many factors, including
13 cost savings to Med-Quest. Plaintiffs claim the Defendants fraudulent statements or
14 omission of allergies to Penicillin, within the Defendants HILO, QUEENS, R.T.O.P.,
15 HA.A., and through its/their Defendant DOCTORS and their healthcare staff, were
16 the cause of the actual loss suffered as direct or proximate relationship between the
17 loss and the misrepresentation in the Federal hospital records and Federal Aviation
18 records.
19

20 **VI. Damages**

21 59. As the proximate result of Defendant's conduct, Plaintiffs suffered as to
22 Plaintiff DARRELL WILLIAM WHEELER'S irreparable injury to (his person, and
23 Sole, pain, humiliation, emotional distress, hurt feelings, and embarrassment as
24 according to proof.
25
26

1 60. As a further proximate result, Plaintiffs suffered damage to their property
2 in an amount according to proof.

3 61. As a further proximate result, Plaintiffs have lost income from their
4 normal occupations, and will continue to lose said income in the future, in an amount
5 according to proof.
6

7 62. The conduct of the licensed Federal medical doctors enterprise was
8 malicious, wanton, and oppressive. Plaintiffs are, therefore, entitled to an award of
9 punitive damages against these Defendants.

10 63. As a proximate result, Plaintiff DARRELL WILLIAM WHEELER
11 requires costly physical and mental and emotional rehabilitation in an amount
12 according to proof.
13

14 64. Plaintiffs found it impossible to retain or engage the services of private
15 counsel to vindicate their rights under the law. Nor do they have funds to pay \$350
16 per hour for their services. Plaintiff PAULINE ELLIS has provided one on one care
17 to Plaintiff DARRELL WILLIAM WHEELER. Plaintiffs are therefore entitled to an
18 award of all costs incurred in relation to this action for violation of their Federal
19 Legal Rights and Civil Rights, taken away as a result of the Defendants actions, as
20 against the Plaintiffs.
21
22
23
24
25
26

VII. Causes of Action

FIRST CAUSE OF ACTION

(42 U.S.C Section 1983)

(Against Defendants CEO RONALD SCHURRA, Doctor GARY SMITH, Doctor ROBIN A. EDWARDS, Doctor GERALD E. LAU, Doctor DAVID Y. NAKAMURA, Doctor STEVEN J. GARONS, Doctor MIHAE YU, Doctor MENG-CHEN ROE, Doctor MANKWAN T. WONG, Doctor JOHN DOE and Doctor RICHARD ROE, and Does 1through 25, inclusive).

65. Plaintiff realleges and incorporates by reference paragraphs 1 through 61 of this Complaint.

66. In doing the acts complained of, Defendant Doctors acted under the color of the law to deprive the Plaintiff of certain Constitutionally protected rights, including, but not limited to:

A. The right to be free from unreasonable seizures, as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution;

B. The right to be free from arrest without probable cause, as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution;

C. The right not to be deprived of life, liberty without due process of law, as guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution;

D. The right to be free from the use excessive force by Federal Doctor and other Government actors, which is guaranteed by the Fourth, Fifth and Fourteenth Amendments to the United States Constitution;

1 E. The right to be free from cruel and unusual punishment; and from pre-
2 judgment punishments, as guaranteed by the Eighth Amendment to The United
3 States Constitution;

4 F. The right to counsel (Surrogacy) before interrogation in a custodial
5 setting, as guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United
6 States Constitution.

7
8 67. As a proximate result of Defendant's wrongful conduct, Plaintiff suffered
9 injuries and damages as set forth.

10 **WHEREFORE**, Plaintiff prays for relief as set forth in the Complaint.

11
12 **SECOND CAUSE OF ACTION**

(42 U.S.C. Section 1983)

13 (Against Defendants HILO, Defendant QUEENS, Defendant R.O.T.P, Defendant
14 LITNEUTRAL, Defendant ROBERT WHITE, Defendant RONALD SCHURRA,
and Defendant H.A.A.)

15 68. Plaintiff realleges and incorporates by reference herein paragraphs 1
16 through 67 of this Complaint.

17
18 69. Defendant HILO, CEO RONALD SCHURRA, Defendant QUEENS,
19 Defendant R.O.T.P., Defendant LITNEUTRAL, Defendant ROBERT WHITE, by
20 and through their supervisory officials and employees, have been given notice on
21 repeated occasions of patterns of ongoing Constitutional Violations and practices by
22 Defendant Federal Health Care Facilities herein and other Doctors, consisting of
23 "patient dumping", failure to check records for known allergies, denial of counsel,
24 assault with intent to kill, cruel and unusual punishment, restraint by medication,
25 records fraud, and making and transmitting of permanent medical records, providing
26

1 person with bi-polar disease and injected Plaintiff DARRELL WILLIAM
2 WHEELER with seven doses of a controlled substance; each doctor knew that
3 Plaintiff DARRELL WILLIAM WHEELER was deathly allergic to. Despite said
4 Notice, Defendants HILO, Defendant QUEENS, Defendant R.O.T.P, Defendant
5 LITNEUTRAL, Defendant ROBERT WHITE, Defendant RONALD SCHURRA,
6 and Defendant H.A.A. have demonstrated deliberate and willful indifference to this
7 pattern and practices of Constitutional violations by failing to take necessary,
8 appropriate or adequate measures to prevent the continued perpetuation of said
9 pattern of consent by their Federal Doctors. This lack of supervisorial response by
10 Defendants HILO, Defendant QUEENS, Defendant R.O.T.P, Defendant
11 LITNEUTRAL, Defendant ROBERT WHITE, Defendant RONALD SCHURRA,
12 and Defendant H.A.A. and demonstrates the existence of an informal custom or
13 policy which tolerates and promotes the continued violation of Civil Rights of
14 citizens by their doctors and healthcare providers.

15
16
17 70. The acts of Defendant DOCTORS alleged herein are the direct and
18 proximate result of the deliberate indifference of Defendants HILO, Defendant
19 QUEENS, Defendant R.O.T.P, Defendant LITNEUTRAL, Defendant ROBERT
20 WHITE, Defendant RONALD SCHURRA, and Defendant H.A.A. and their
21 supervisory officials and employees to violations of Constitutional Rights by
22 Defendant Federal Doctors herein, and other members of their Federal Health Care
23 Facilities. The Plaintiff's injuries were foreseeable and a proximate result of the
24 deliberate indifference of the Defendants HILO, Defendant QUEENS, Defendant
25

1 R.O.T.P, Defendant LITNEUTRAL, Defendant ROBERT WHITE, Defendant
2 RONALD SCHURRA, and Defendant H.A.A. and to the pattern, practices, customs,
3 and policies described above.

4
5 **WHEREFORE**, Plaintiffs pray for relief as set forth in the Complaint.

6 **THIRD CAUSE OF ACTION**
7 (California Civil Code Section 52.1)
8 (Exemplary Damages Against All Defendants)

9 71. Plaintiffs realleges and incorporate by reference herein paragraphs 1
10 through 70 of this Complaint.

11 72. The conduct of the Defendants Federal Doctors as described herein
12 violated California Civil Code section 52.1, in that they interfered with Plaintiff's
13 exercise and enjoyment of his Civil Rights, as enumerated above, through use of
14 chemical assault and battery, false imprisonment through chemical restraint and
15 denial of due process.

16 73. As a direct and proximate result of defendant's violations of Civil Code
17 section 52.1, Plaintiffs suffered violations to their personal and their Constitutional
18 rights, and suffered damages as set forth.

19 74. Since the conduct of Defendant Federal DOCTORS occurred in the
20 course and scope of their employment, Defendants HILO, Defendant QUEENS,
21 Defendant R.O.T.P, Defendant LITNEUTRAL, Defendant ROBERT WHITE,
22 Defendant RONALD SCHURRA, and Defendant H.A.A. and DOES 1 through 25
23 are liable to Plaintiff pursuant to respondent Superior.
24
25
26

1 75. Plaintiffs are entitled to injunctive relief and an award of cost pursuant to
2 Civil Code section 52.1

3 **WHEREFORE**, Plaintiff prays for relief as set forth in the Complaint.

4
5 **FOURTH CAUSE OF ACTION**

6 (Assault and Battery)
7 (Against all Defendants)

8 76. Plaintiff realleges and incorporates by reference herein paragraphs 1
9 through 75 of this Complaint.

10 77. Defendant Federal Doctors placed Plaintiff in immediate fear for his
11 safety by unjustifiably injecting his person with seven doses of a controlled substance
12 that Plaintiff DARRELL WILLIAM WHEELER was allergic to. Defendants also
13 blew out Plaintiff DARRELL WILLIAM WHEELER'S lung. Defendants also
14 chemically restrained Plaintiff DARRELL WILLIAM WHEELER. Defendants also
15 provided such deplorable care and neglect that Plaintiff DARRELL WILLIAM
16 WHEELER was left severely contracted thus requiring major surgery cutting his
17 Achilles tendon so that he could stand. Plaintiff DARRELL WILLIAM WHEELER
18 will never be able to move or walk normally again.

19
20 78. Defendant's conduct was neither privileged nor justified under Statute or
21 Common Law.

22 79. Since the conduct of Defendant Federal DOCTORS occurred in the
23 course and scope of their employment, defendant HILO, Defendant QUEENS,
24 Defendant R.O.T.P, Defendant LITNEUTRAL, Defendant ROBERT WHITE,
25

1 Defendant RONALD SCHURRA, and Defendant H.A.A. are therefore liable to
2 Plaintiff pursuant to respondent superior.

3 80. As a proximate result of Defendant's wrongful conduct, Plaintiffs
4 suffered damages as set forth.
5

6 **WHEREFORE**, Plaintiffs pray for relief as set forth in the Complaint.

7 **FIFTH CAUSE OF ACTION**
8 (Intentional Infliction of Emotional Distress)
9 (Against All Defendants)

10 81. Plaintiff realleges and incorporates by reference herein Paragraphs 1
11 through 80 of this Complaint.

12 82. The conduct of Defendant Federal DOCTORS, as set forth herein, was
13 extreme and outrageous and beyond the scope of conduct which is to be tolerated by
14 citizens in a democratic and civilized society. However, in order to deliberately
15 injure Plaintiffs, Defendant Federal DOCTORS committed the aforementioned
16 extreme and outrageous acts with the intent to inflict severe mental and emotional
17 distress upon Plaintiffs.
18

19 83. Since the conduct of Defendants occurred in the course and scope of their
20 employment, Defendants HILO, Defendant QUEENS, Defendant R.O.T.P,
21 Defendant LITNEUTRAL, Defendant ROBERT WHITE, Defendant RONALD
22 SCHURRA, and Defendant H.A.A. are therefore liable to Plaintiffs pursuant to
23 respondent superior.
24
25
26

1 84. As a proximate result of Defendant's willful, intentional and malicious
2 conduct, Plaintiffs are entitled to an award of punitive damages as against the
3 individually named doctors. Plaintiffs have suffered damages as set forth.

4
5 **WHEREFORE**, Plaintiff prays for relief as set forth in the Complaint.

6 **SIXTH CAUSE OF ACTION**
7 (False Imprisonment)
8 (Against All Defendants)

9 85. Plaintiff realleges and incorporates by reference herein paragraphs 1-84
10 of this Complaint.

11 86. On or about October 20, 2002, Defendant DOCTORS did intentionally
12 and maliciously inject deadly drugs without a Court order of commitment of any
13 kind, or any other legal authority of any kind into Plaintiff DARRELL WILLIAM
14 WHEELER'S person. Defendant DOCTORS' duty was to stabilize Plaintiff
15 DARRELL WILLIAM WHEELER, not kill him.

16 87. Defendant Doctors detained Plaintiff DARRELL WILLIAM WHEELER
17 in their care and custody while they assaulted him with each injection to kill him at
18 Defendant HILO or in the air ambulance ride to Defendant QUEENS, where Plaintiff
19 DARRELL WILLIAM WHEELER was imprisoned by chemical restraint until his
20 eventual release by Court order dated June 23, 2006, Case Number G No. 03-1-0005
21 in the Circuit Court of The Third Circuit State of Hawaii.

22 88. Since the conduct of Defendant DOCTORS' occurred in the course and
23 scope of their employment, Defendants HILO, Defendant QUEENS, Defendant
24 R.O.T.P, Defendant LITNEUTRAL, Defendant ROBERT WHITE, Defendant
25

1 RONALD SCHURRA, and Defendant H.A.A. and are therefore liable to Plaintiff
2 pursuant to respondent superior.

3 89. The conduct of Defendant DOCTORS, as set forth herein, was extreme
4 and outrageous and beyond the scope of conduct which should be tolerated by
5 citizens in a democratic and civilized society. However, in order to deliberately
6 injure Plaintiffs, Defendant Doctors committed the aforementioned extreme and
7 outrageous acts with the intent to inflict severe injury or death upon Plaintiff
8 DARRELL WILLIAM WHEELER thereby justifying an award of punitive damages
9 against all Defendants.
10

11 90. As a proximate result, Plaintiffs suffered as set forth in the Complaint.
12

13 **WHEREFORE**, Plaintiff prays for relief as set forth in the Complaint.

14 **SEVENTH CAUSE OF ACTION**

15 (Defamation)

16 (Against Defendant Litneutral, LLC., Robert White)

17 91. Plaintiffs incorporate by reference all allegations stated in paragraphs 1
18 through 90 inclusive, as if fully set forth in the Complaint.

19 92. Defendant LITNEUTRAL, ROBERT WHITE, Surety for Defendant
20 HILO, lied to Plaintiffs and falsely told them that they had done an investigation and
21 determined that Plaintiff DARRELL WILLIAM Wheeler's injuries and care were
22 not caused by the Defendants. Defendants knew that they had no reasonable basis
23 for making said accusation because they knew that they had done no investigation
24 into the veracity of their statements, but instead had made them recklessly and with a
25 conscious disregard for the rights of Plaintiffs DARRELL WILLIAM WHEELER
26

1 and PAULINE ELLIS. Defendants did place in the U.S. Mail a letter dated April 12,
2 2008 (See Exhibit C).

3 93. Plaintiffs are informed and believe and, based on that information and
4 belief allege, that Defendants and their Agents made the statements as alleged in
5 paragraph 92 knowingly.
6

7 94. The aforementioned facts were untrue, and Defendants knew them to be
8 untrue.

9 95. The publication of these allegations were instigated by malice, hatred,
10 and ill-will toward Plaintiffs as a Federal Med-Quest recipient.
11

12 96. As a result of Defendants unlawful conduct Plaintiffs DARRELL
13 WILLIAM WHEELER and PAULINE ELLIS have suffered special and general
14 damages to their reputation.

15 97. Defendants conduct arose from hatred and ill will towards Plaintiffs
16 DARRELL WILLIAM WHEELER and PAULINE ELLIS and a desire to oppress
17 Plaintiffs and with the wrongful intention of injuring Plaintiffs. The conduct was
18 taken with an improper and evil motive amounting to malice and in conscious
19 disregard of Plaintiffs rights and abilities. Because the actions taken towards
20 Plaintiffs, Plaintiffs are entitled to recover punitive damages from Defendants in an
21 amount according to proof and in an amount appropriate to punish and make an
22 example of Defendants.
23

24 **WHEREFORE**, Plaintiff prays for relief as set forth in this Complaint.
25
26
27
28

EIGHTH CAUSE OF ACTION
(Negligence)
(Against All Defendants)

98. Plaintiffs realleges and incorporate by reference herein paragraphs 1 through 64 of this Complaint, except for any and all allegations of extreme, outrageous, intentional, malicious, wanton, and oppressive conduct by Defendants, and any and all allegations requesting punitive damages.

99. At all times herein mentioned, defendants were subject to a duty of care, to avoid causing unnecessary physical harm and distress to citizens in the exercise of the Federal Med-Quest Health Care System. The conduct of Defendants, as set forth herein, did not comply with the standard of care to be exercised by reasonable Doctors and hospitals, proximately causing Plaintiff DARRELL WILLIAM WHEELER to suffer damages as set forth.

WHEREFORE, Plaintiff prays for relief as set forth in the Complaint.

NINTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)
(Against All Defendants)

100. Plaintiffs realleges and incorporate by reference herein paragraphs 1 through 99 of the Complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton, and oppressive conduct by Defendants, and any and all allegations requesting punitive damages.

101. At all times herein mentioned, defendants were subject to a duty of care, to avoid causing unnecessary physical harm and distress to citizens. The conduct of Defendants, as set forth herein, did not comply with the Standard of Care to be

1 exercised by reasonable Federal doctors and Federal Med-Quest hospitals,
2 proximately causing Plaintiff to suffer damages as set forth.

3 102. The conduct of Defendants as set forth herein, was extreme and
4 outrageous and beyond the scope of conduct which should be tolerated by citizens in
5 a democratic and civilized society.
6

7 103. As a proximate result of Defendant's conduct, Plaintiffs suffered severe
8 and extreme mental and emotional distress. Plaintiffs have suffered damages as set
9 forth.

10 **WHEREFORE**, Plaintiff prays for relief as set forth in the Complaint.
11

12 **CLAIM REQUIREMENT**

13 104. For State causes of action related to Federal claims, Plaintiffs are
14 required to comply with administrative claim requirements under California law.
15 Plaintiffs DARRELL WILLIAM WHEELER and PAULINE ELLIS have complied
16 with all applicable requirements, and all administrative remedies have been
17 exhausted.
18

19 **JURY DEMAND**

20 105. Plaintiff hereby demands a Jury trial in this actions.
21

22 **PRAYER**

23 **WHEREFORE**, Plaintiffs pray for relief as follows: \$10,000,000
24

- 25 1. Special demands in an amount no less than \$10,000,000
26 2. General damages in an amount no less than \$5,000,000

3. Punitive damages in an amount no less than \$1,000,000 per Defendant
4. Exemplary damages in the amount of \$10,000,000 and an additional \$25,000 per Defendant for each violation of the Civil Code section 51.7 and cost pursuant to Civil Code section 52(b).

\$ 3,433,260.00
5. Cost of care to date as invoiced see (Exhibit D) ~~\$9,600,000~~

PE 4/27/09
6. Cost pursuant to 42 U.S.C. 1988
7. Cost of suit incurred herein, and
8. Such other and further relief as the Court may deem just and proper. Or in the alternative return my health and quality of life.
9. Justice for all

Dated April 27, 2009

By: *Pauline Ellis*

Pauline Ellis

By: *[Signature]*
Darrell William Wheeler

EXHIBIT LIST
WHEELER v. HILO
CASE NO. As Filed

- A. Guardianship Order dated June 27, 2003.
- B. Federal Hospital Records dated July 3, 2001 and September 24, 2002.
- C. LitNeutral Letter dated April 16, 2007.
- D. Invoice from Pauline Ellis dated December 31, 2003 through March 31, 2009.
- E. Judgment Guilty Conviction and Sentence Case Number 02-1-0407 State of Hawaii.

FILED

ROBERT P. MARX,
ATTORNEY AT LAW,
A LAW CORPORATION

2003 JUN 27 PM 1:32

ROBERT P. MARX #2746
688 Kinoole Street, Suite 105
Hilo, Hawaii 96720
Telephone: (808) 935-8988

B. McRAE
B. McRAE, CLERK
THIRD CIRCUIT COURT
STATE OF HAWAII

Attorney for Petitioner

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

IN THE MATTER OF GUARDIANSHIP OF:	)	G. No. 03-1-0005
	)	(Guardianship of Adult)
DARRELL WILLIAM WHEELER,)	
	)	ORDER GRANTING PETITION FOR
	)	APPOINTMENT OF GUARDIAN FOR
Incapacitated Person,	)	INCAPACITATED PERSON DARRELL
Adult.	)	WILLIAM WHEELER

**ORDER GRANTING PETITION FOR APPOINTMENT OF GUARDIAN FOR INCAPACITATED
PERSON DARRELL WILLIAM WHEELER**

The Petition for Appointment of Guardian for Incapacitated Person Darrell William Wheeler having been filed by PAULINE ELLIS, Petitioner; said Motion having regularly come on for hearing before the Honorable Judge Greg K. Nakamura in his courtroom on June 17, 2003 at 8:30 a.m.; present were Petitioner PAULINE ELLIS and Incapacitated Person Darrell William Wheeler who was being represented by Robert P. Marx, Esq.; and the Court having reviewed the documents filed herein, and good basis appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Petition for Appointment of Guardian for Incapacitated Person Darrell William Wheeler, filed herein on April 11, 2003, be, and the same is hereby GRANTED as follows:


I hereby certify that this is a full, true and correct
copy of the original on file in this office.


hawaii

Clerk, Third Circuit Court, State of Hawaii

1. Court finds that a basis for the appointment of a Guardian for the above-named incapacitated person has been established;
2. That PAULINE ELLIS be and hereby is appointed Guardian for Darrell William Wheeler and that letters be issued to said Guardian without bond;
3. That PAULINE ELLIS is granted the authority to make medical decisions and all other related decisions in the care and management of incapacitated person Darrell William Wheeler;
4. That guardian shall have all the authority described in HRS § 560:5-312.

DATED: Hilo, Hawaii, JUN 27 2003


JUDGE OF THE ABOVE-ENTITLED COURT
GREG K. NAKAMURA



NAKAMOTO, OKAMOTO & YAMAMOTO
ATTORNEYS AT LAW
A LAW CORPORATION

JEREL I. YAMAMOTO 2807-0
187 Kapiolani Street
Hilo, Hawaii 96720

Telephone: (808) 961-0641

Kokua Kanawai

2003 MAR 17 11:41:16

B. McRAE
B. McRAE, CLERK
THIRD CIRCUIT COURT
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
STATE OF HAWAII

In the Matter of the	)	G. No. 03-1-0005
Guardianship	)	Guardian of Adult
)	
of)	
	)	REPORT OF KOKUA KANAWAI;
DARRELL WILLIAM WHEELER	)	AFFIDAVIT OF JEREL I.
	)	YAMAMOTO; EXHIBIT 1;
An Incapacitated Person.	)	CERTIFICATE OF SERVICE
)	
	)	JUDGE: GREG K. NAKAMURA
)	
	)	HEARING: March 20, 2003
	)	8:00 a.m.

REPORT OF KOKUA KANAWAI

Jerel I. Yamamoto, court appointed Kokua Kanawai, submits the following report:

1. Your Kokua Kanawai was appointed on February 26, 2003.
2. After reviewing the petition, your Kokua Kanawai met with and had a lengthy conversation with Petitioner Pauline Ellis regarding the case.

The purpose of this guardianship of the property is to have someone appointed to protect, investigate and pursue possible personal injury claims that the protected person

I hereby certify that this is a full, true and correct copy of the original on file in this office.

hucsd

Clark, Third Circuit Court, State of Hawaii

may have against third parties (including Hilo Medical Center, the emergency room physician, unknown assailant) which have caused his injuries.

3. Your Kokua Kanawai is informed that Mr. Wheeler has no immediate family members to be responsible for him. Ms. Ellis stated that Mr. Wheeler's father died when he was 21 and his mother died in 1997. He has no brothers or sisters. After his mother died, Mr. Wheeler had stated to Ms. Ellis that he had no relatives. He may have aunts or uncles but Mr. Wheeler was not close to them, did not maintain regular contact with them and doesn't know their whereabouts.

Mr. Wheeler confirmed that he may have aunts or uncles but does not know where they are.

Your Kokua Kanawai is also informed that Mr. Marx's office contacted Mr. Wheeler's friends in California to determine if there were extended family members or relatives. I am informed that the friends did not provide the names of any other relatives.

4. I am informed that on or about October 26, 2002, the protected person was assaulted and beaten around the head area. Wheeler was then admitted to Hilo Medical Center where was being treated for severe head trauma. During the course of treatment, Wheeler received several medications including penicillin, which he is allergic to.

Mr. Wheeler had a bad reaction to the penicillin and then went into a coma and sustained further brain damage. He subsequently regained consciousness. His physical condition has improved over the past three months. He is currently confined to his bed and has limited physical function at the present time.

Mr. Wheeler underwent surgery January 29, 2003, at Queens Medical Center in Honolulu to lengthen his Achilles tendon on both legs, which was to release muscles that

had contracted and had tightened. He was then transferred to the Rehab Hospital of the Pacific where he is currently a resident.

Your Kokua Kanawai met with Valarie Mendoza, his case manager at Rehab Hospital and reviewed Mr. Wheeler's chart about his condition.

Mr. Wheeler's current treating physicians are Dr. Mang Roe (1380 Lusitana Street, Suite 804) and Dr. Yiu (1380 Lusitana St. Ste. 804). Mr. Wheeler's mental competency is being monitored by clinical psychologist Brian Coombs, Ph.d. (544-3366).

The medical records indicated that initially (on February 14, 2003) Dr. Coombs believed that Mr. Wheeler was competent and able to make his own decisions. Subsequently, on February 21, 2003, Dr. Coombs changed his opinion on Mr. Wheeler's competency. He now maintains that Mr. Wheeler is not competent to make complex decisions, even though he is able to answer questions.

5. On March 14, 2003, your Kokua Kanawai visited with the protected person at the Rehab Hospital of the Pacific in Honolulu.

Mr. Wheeler was found in his bed. He is on a 24-hour watch because he has fallen out of bed on several occasions due to his rocking side to side in his bed. He is unable to sit up on his own and does not have coordinated motor skills. He is able to sit in a wheelchair. According to Ms. Mendoza, he is unable to write or to draw. He is able to do a feeding motion in his right hand. He can shake hands on his right side, but there is no noticeable movement or function on his left side.

Mr. Wheeler is undergoing intensive therapy at Rehab. He was observed undergoing speech therapy and was able to follow instructions and have a question and answer session with the therapist. His attention span is extremely short and is able to

identify his speech therapist and the other therapists by name. He was able to answer simple questions but could not answer complex or long questions. He does need prompting in answering questions. He was also able to correctly answer several addition problems given to him. He also made several errors.

After his therapy session was over, I was able to have a conversation with Mr. Wheeler.

Wheeler was able to tell your Kokua Kanawai that Pauline Ellis is a friend who he knows for about 10 years. He told me that he wanted Pauline to be his guardian of the property because he trusts her. He is aware that Pauline has filed a petition to be his guardian. I don't believe, however, that he totally comprehends the scope and responsibility of a guardianship.

6. Your Kokua Kanawai is informed that Mr. Wheeler's medical bills are currently being paid through MedQuest (welfare).

7. Ms. Ellis is 53 years old. She is a registered nurse employed at Hilo Medical Center. She has been a nurse in Hilo for 4 years.

Ms. Ellis has known Mr. Wheeler for about 12 years. Ms. Ellis and Mr. Wheeler went to nursing school together and were in study groups. In addition, they were roommates. Mr. Wheeler was made a part of her family in California.

After getting her nursing job here, Mr. Wheeler came over and checked out the situation. Mr. Wheeler then moved here to work as a nurse.

There are no known problems (physical, mental or other), which would prevent her from her serving as guardian of the property. She has general knowledge on what her duties and responsibilities will be as a guardian of the property.

8. Ms. Ellis intends to bring Mr. Wheeler back to Hilo on or about March 26, 2003. Although she is working, she will be using various service agencies and friends to provide care to Mr. Wheeler. There had been plans to place Mr. Wheeler in a care home in California, which have been superceded.

CONCLUSION:

Based on the foregoing, it is the recommendation of your Kokua Kanawai that the petition for appointment of Pauline Ellis as guardian of the property for Darrell Wheeler be granted. Although Darrell Wheeler is able to answer simple questions, he is unable to competently manage his own financial affairs and make complex decisions. Mr. Wheeler should be advised of and involved in the decision-making process. Your Kokua Kanawai is satisfied that Pauline Ellis is competent and capable to serve as guardian of the property. It is in the best interest of the protected person to establish this guardianship of the property and to appoint Ms. Ellis as guardian.

Your Kokua Kanawai also recommends that a guardianship of the person be obtained as well. Although the protected person should be involved in the decision-making process, I believe that he needs someone to make medical treatment decisions on his behalf.

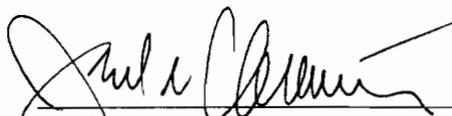
Wherefore, Your Kokua Kanawai requests:

1. That the court approve this report;
2. That the court discharge him after accepting the report.
3. That the court approve the requested fees and costs as submitted by your

Kokua Kanawai.

4. For such other and further relief that the Court deems just and equitable under the circumstances.

Dated: Hilo, Hawaii, March 17, 2003

A handwritten signature in black ink, appearing to read "Jerel A. Yamamoto", written over a horizontal line.

Jerel A. Yamamoto
Kokua Kanawai

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

In the Matter of the	)	G. No. 03-1-0005
Guardianship	)	Guardian of Adult
)	
of)	
)	
DARRELL WILLIAM WHEELER	)	AFFIDAVIT OF JEREL I.
	)	YAMAMOTO; EXHIBIT 1;
An Incapacitated Person.)	
)	
)	

AFFIDAVIT OF JEREL I. YAMAMOTO

STATE OF HAWAII)
) SS:
COUNTY OF HAWAII)

I, JEREL I. YAMAMOTO, being first duly sworn on oath, deposes and states:

1. I am an attorney duly licensed to practice law in the State of Hawaii and am a member of Nakamoto, Okamoto & Yamamoto. I have been appointed Kokua Kanawai by this Court pursuant to an Order filed on February 26, 2003.
2. I have personal knowledge of the contents of this Affidavit and am competent to testify about the same.
3. I have performed the duties required of a Kokua Kanawai as defined by court rules and the services performed are related to the performance of my duties herein.
4. Attached hereto as Exhibit 1 and by reference made a part hereof is a true and correct copy of a detailed billing statement of services performed and costs incurred as Kokua Kanawai. The charges are based on a time spent basis at a rate of \$180 per hour. The rates charged herein are reasonable and comparable to charges of other

attorneys in Third Judicial Circuit with comparable experience. All costs and charges are directly related to the services performed in this case.

And further affiant sayeth not.


JEREL I. YAMAMOTO

Subscribed and sworn to before me
this 17 day of March, 2003.

L.S.


JANICE Y. KANESHIRO
Notary Public, State of Hawaii

My commission expires: 7/4/2003

OKAMOTO, OKAMOTO & YAMAMOTO
 ATTORNEYS AT LAW, A LAW CORPORATION
 187 Kapiolani Street
 Hilo, Hawaii 96720-2687
 (808) 961-0641

THIRD CIRCUIT COURT
 75 AUPUNI ST
 HILO HI 96720

Page: 1
 03/17/03
 ACCOUNT NO: 2003160-00
 STATEMENT NO: 1

SERVE AS KOKUA KANAWAI FOR DARRELL W. WHEELER

	HOURS	
02/19/03		
JIY Telephone call from Sue/3CC re: Kokua Kanawai	0.20	36.00
03/04/03		
JIY Telephone call to Bob Marx office - message	0.10	18.00
03/05/03		
JIY Telephone conference with Bob Marx	0.20	36.00
03/07/03		
JIY Review fax from Bob Marx	0.20	36.00
JIY Telephone call to Valarie / Rehabilitation Hospital of the Pacific	0.20	36.00
JIY Telephone call to Valarie / Rehab Hospital	0.10	18.00
03/10/03		
JIY Telephone call to Bob Marx - message	0.10	18.00
JIY Telephone call to Marx's office re: order appointment	0.20	36.00
JIY Draft fax to Valarie/Rehab Hospital	0.30	54.00
JIY Review petition and order	0.30	54.00
JIY Telephone call from Bob Marx	0.20	36.00
03/12/03		
JIY Draft report	1.00	180.00
JIY Telephone call to Pauline Ellis	0.30	54.00
03/14/03		
JIY Travel to Honolulu; Conference with Val Mendoza/Case Manager; Meeting with		

EXHIBIT 1

THIRD CIRCUIT COURT

03/17/03

ACCOUNT NO: 2003160-00

STATEMENT NO: 1

SERVE AS KOKUA KANAWAI FOR DARRELL W. WHEELER

	HOURS	
Darrell Wheeler; Return to Hilo	9.00	1,620.00
03/17/03		
JIY Review message from Val	0.10	18.00
JIY Telephone call to Dr. Coombs - message	0.10	18.00
JIY Work on report of Kokua Kanawai	1.00	180.00
03/20/03		
JIY Attend Guardianship hearing	0.70	126.00
FOR CURRENT SERVICES RENDERED	14.30	2,574.00
HAWAII EXCISE TAX ON SERVICES		107.26
03/07/03 telephone charge 808-566-3735		1.42
03/07/03 telephone charge 808-566-3735		2.17
03/17/03 Check to Puainako Travel Service for airfare to Honolulu		73.00
03/17/03 Check to AVIS for car rental		22.51
03/17/03 Check to JIY for reimbursement for airport parking fee		3.50
03/17/03 telephone charge 808-544-3366		
telephone charge 808-547-4401		2.84
TOTAL ADVANCES		105.44
TOTAL CURRENT WORK		2,786.70
BALANCE DUE		<u>\$2,786.70</u>

IMPORTANT: PLEASE WRITE YOUR ACCOUNT NUMBER ON PAYMENT

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

In the Matter of the	)	G. No. 03-1-0005
Guardianship	)	Guardian of Adult
)	
of)	
	)	CERTIFICATE OF SERVICE
DARRELL WILLIAM WHEELER)	
)	
An Incapacitated Person.)	
)	
_____)	


CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing REPORT OF KOKUA KANAWAI;
AFFIDAVIT OF JEREL I. YAMAMOTO and EXHIBIT 1, was duly mailed, postage
prepaid to the following on this 17th day of March, 2003:

Robert Marx, Esq.
688 Kinoole Street
Suite 105
Hilo, Hawaii 96720

Pauline Ellis
PMB 206, 200 Kanoelehua Avenue
Hilo, Hawaii 96720

Darrell W. Wheeler
Rehab Hospital of the Pacific
226 N. Kuakini Street
Room 310, Bed 1
Honolulu, Hawaii 96817



JEREL I. YAMAMOTO

Identify initials by signature and title.

Hilo Medical Center
We Care for Our Community

EMERGENCY SERVICES TREATMENT RECORD

Room #

2

Triage Acuity Level: <input type="checkbox"/> Non-Urgent <input type="checkbox"/> Urgent <input type="checkbox"/> Emergency				Acc. No. 1560309		Med. Rec. No. 285276	
Name: Family First Middle		D.O.B.		Age		S.S. #	
WHEELER, DARRELL W		11/22/68		0337		563-73-C474	
Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female		Marital Status: <input type="checkbox"/> S <input type="checkbox"/> Sep <input type="checkbox"/> M <input type="checkbox"/> D <input type="checkbox"/> W		Next of Kin ELLIS, PAULINE		Relationship OT	
Phone No. 8088073040		Permanent Address: 1911 KALANIANAOLE AVE HILLO HI 96720		Zip Code 96720		Phone No.	
Street Address: 1911 KALANIANAOLE AVE HILLO HI 96720		Zip Code 96720		Clerk Initials ERJK			
Occupation UNEMPLOYED		Employer UNEMPLOYED		Insurance Type: DMS			
ER Physician		Private Physician ABETIA, CARLOS		Triage Time 1804		Room Time MD Time Time Out 100	
Date 9/27/02		Condition on Arrival: <input type="checkbox"/> A <input type="checkbox"/> V <input type="checkbox"/> P <input type="checkbox"/> U		Brought to Hospital by: <input type="checkbox"/> Medic <input type="checkbox"/> PMV <input type="checkbox"/> Other		Information from: <input type="checkbox"/> Self <input type="checkbox"/> EMS <input type="checkbox"/> Other	
Accident: 9/27/02/ 800/005ET		Current Medications: 0		Time 1810		B.P. 120/71	
Pulse 68		Resp. 18		SpO2% 97		Temp. 98.0	
<input type="checkbox"/> Tm <input type="checkbox"/> ax <input checked="" type="checkbox"/> Rect.		VA: OD OS		Medical History: 0		LMP: WT: Last Tetanus:	
Allergies: Pen		Chief Complaint / Evaluation: To EP % Depressed, Anxious Afraid of Hurting Self or Someone else. Last job due to medical condition feels "Life is Out of Control." Find here for psy eval by Dr. Shylva + Cy Occ CTDH + cocaine job financial stressor, poor sleep, self angry + mediant unemployed - since 6/2005 X 2yr Non depressed MSE A03, affect full mood depressed can contact with family, Doherty ST judgment / insight / cognition Total DX to have Followup		M.D. Orders CBC C hem & LFT's Any Urine wne + serum tox UA Depa/late 1000mg 500mg po QNS Clexon 40mg po Q1H Valium 10mg po PRN Mg 2g po X1		Initial & Time 1905	
Disposition: <input type="checkbox"/> Home <input type="checkbox"/> Admit <input type="checkbox"/> Other <input type="checkbox"/> Transfer to		Notified: <input type="checkbox"/> Police: Time By		Valuables & Clothing: Given to: One C155		Signature: [Signature]	
<input type="checkbox"/> See your private physician in days, if not improved.		<input type="checkbox"/> Follow up instructions sheet given.		<input type="checkbox"/> Relative <input type="checkbox"/> Patient <input type="checkbox"/> Other			



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Litneutral.com

4/16/2007

Mr. Darrell Wheeler & Ms. Pauline Ellis
C/O Ms. Pauline Ellis
P. O. Box 1916
Redway, California, 95560

INSURED: Hilo Medical Center
CLAIMANT: Wheeler
DATE OF LOSS: 10/28/02
CLAIM NO.: 40011225

Dear Ms. Ellis,

We are in receipt of your letter of February 25, 2007. Darrell Wheeler ("Mr. Wheeler") claimed damages as a result of administration of penicillin during his hospitalization from October 27, 2002 through October 30, 2002 at Hilo Medical Center.

We are the claims administrator for Hilo Medical Center. Please direct all future communication on this matter to us. If you have secured legal counsel in the interim, please forward this letter to Mr. Wheeler's attorney and request his attorney contact us.

Mr. Wheeler was admitted through the Emergency Room at Hilo Medical Center on October 27, 2002 with an admitting diagnosis of closed head trauma, status post assault and respiratory failure.

He was treated for these injuries and transferred to Queens Medical Center on October 30, 2002 with a diagnosis of pneumonmediastinum, aspiration pneumonia and concussion with brainstem contusion.

The administration of the antibiotic mediation did not result in any anaphylactic reaction.

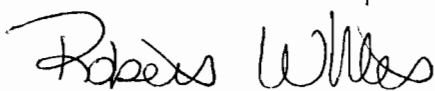
In addition, please be advised that the physician who ordered the medication was an independent contractor and not employed by Hilo Medical Center.

Finally, if you have not consulted an attorney with respect to Mr. Wheeler's claims, and in particular, the applicable statute of limitations, we suggest you do so. Mr. Wheeler's claims may be time barred by the statute of limitations.

Further, by sending you this letter, we do not waive any defenses that may be available to Hilo Medical Center, including the lack of jurisdiction in the event Mr. Wheeler fails to file a claim with the Medical Claims Conciliation Panel before he files any lawsuit.

At this time we respectfully deny the claim for damages as set forth in your letter of February 25, 2007. If you have additional information you would like us to consider, please direct the information to us at your convenience.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Robert White". The signature is fluid and cursive, with the first name "Robert" and last name "White" clearly distinguishable.

Robert White
Director, Professional Liability Claims
LitNeutral

BCC: Rene McWade

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/03 - Page 1
Invoice# 03-2003
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
03/31/2003	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
04/30/2003	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
05/31/2003	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
06/30/2003	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
7/31/2003	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
08/31/2003	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500-misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
09/30/2003	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/03 - Page 2
Invoice# 03-2003
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
10/31/2003	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
11/30/2003	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
12/31/2003	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 44,640.00

One on One 24 hr personal nursing care for Darrell William Wheeler: \$440,640.00

2003 Cost of Living Expenses: \$ 30,000.00

Balance Due 2003: \$470,640.00

Important: Please write your account number on payment. Thank you.

Pauline Ellis

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/04 - Page 1
Invoice# 01-2004
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
01/31/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
02/29/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 29 days = 41,760.00
03/31/2004	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
04/30/2004	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
05/31/2004	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
06/30/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
7/31/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/04 - Page 2
Invoice# 01-2004
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
08/31/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500-misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
09/30/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
10/31/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
11/30/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
12/31/2004	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 44,640.00

One on One 24 hr personal nursing care for Darrell William Wheeler: \$527,040.00

2004 Cost of Living Expenses: \$ 36,000.00

Balance Due 2004: \$563,040.00

Important: Please write your account number on payment. Thank you.

Pauline Ellis

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/05 - Page 1
Invoice# 01-2005
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
01/31/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
02/28/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 28 days = 40,320.00
03/31/2005	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
04/30/2005	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
05/31/2005	\$3,000.00 (rent-\$1200; food-\$600;) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
06/30/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
7/31/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/05 - Page 2
Invoice# 01-2005
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
08/31/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500-misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
09/30/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
10/31/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 31 days = 44,640.00
11/30/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 43,200.00
12/31/2005	\$3,000.00 (rent-\$1200; food-\$600) (utilities-\$500; misc.-\$700)	24 HRS x 60.00 x 30 days = 44,640.00

One on One 24 hr personal nursing care for Darrell William Wheeler: \$525,600.00

2005 Cost of Living Expenses: \$ 36,000.00

Balance Due 2005: \$561,600.00

Important: Please write your account number on payment. Thank you.

Pauline Ellis

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/06 - Page 1
Invoice# 01-2006
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
01/31/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
02/28/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 28 days = 40,320.00
03/31/2006	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
04/30/2006	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
05/31/2006	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
06/30/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
7/31/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/06 - Page 2
Invoice# 01-2006
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
08/31/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600-misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
09/30/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
10/31/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
11/30/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
12/31/2006	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 44,640.00

One on One 24 hr personal nursing care for Darrell William Wheeler: \$525,600.00

2006 Cost of Living Expenses: \$ 39,600.00

Balance Due 2006: \$565,200.00

Important: Please write your account number on payment. Thank you.

Pauline Ellis

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/07 - Page 1
Invoice# 01-2007
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
01/31/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
02/28/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 28 days = 40,320.00
03/31/2007	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
04/30/2007	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
05/31/2007	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
06/30/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
7/31/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/07 - Page 2
Invoice# 01-2007
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
08/31/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600-misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
09/30/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
10/31/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.\$800)	24 HRS x 60.00 x 31 days = 44,640.00
11/30/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
12/31/2007	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 44,640.00

One on One 24 hr personal nursing care for Darrell William Wheeler: \$525,600.00

2007 Cost of Living Expenses: \$ 39,600.00

Balance Due 2007: \$565,200.00

Important: Please write your account number on payment. Thank you.

Pauline Ellis

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/08 - Page 1
Invoice# 01-2008
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
01/31/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
02/29/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 29 days = 41,760.00
03/31/2008	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
04/30/2008	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
05/31/2008	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
06/30/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
7/31/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00

**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
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P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**12/31/08 - Page 2
Invoice# 01-2008
Account# 00000**

<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
08/31/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600-misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
09/30/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
10/31/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
11/30/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 43,200.00
12/31/2008	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 30 days = 44,640.00

One on One 24 hr personal nursing care for Darrell William Wheeler: \$527,040.00

2008 Cost of Living Expenses: \$ 39,600.00

Balance Due 2008: \$566,640.00

Important: Please write your account number on payment. Thank you.



**PAULINE ELLIS, REGISTERED NURSE
STATE OF CALIFORNIA #554203, HAWAII #46673
GUARDIAN OF DARRELL WILLIAM WHEELER
P.O. BOX 1916, REDWAY, CA 95560**

**United States Federal Court
Northern District, San Francisco, CA
Case No. Pending**

**03/31/2009- Page 1
Invoice# 01-2009
Account# 00000**


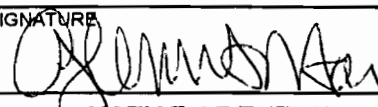
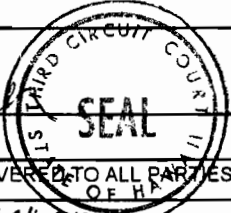
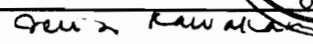
<u>DATE</u>	<u>LIVING EXPENSES</u>	<u>24 HOUR PERSONAL NURSING CARE</u>
01/31/2009	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00
02/28/2009	\$3,300.00 (rent-\$1200; food-\$700) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 28 days = 40,320.00
03/31/2009	\$3,300.00 (rent-\$1200; food-\$700;) (utilities-\$600; misc.-\$800)	24 HRS x 60.00 x 31 days = 44,640.00

One on One 24 hr personal nursing care for Darrell William Wheeler: \$129,600.00

2009 Cost of Living Expenses: \$ 9,900.00

Balance Due 2009: \$140,940.00

Important: Please write your account number on payment. Thank you.

STATE OF HAWAII CIRCUIT COURT OF THE THIRD CIRCUIT		JUDGMENT GUILTY CONVICTION AND SENTENCE		CASE NUMBER: Cr. No. 02-1-0407				
NOTICE OF ENTRY								
STATE VS. (DEFENDANT) LEVY STANFORD CABANTING Social Security Number: 575-80-1977 SID: A-5013945 DOB: 8-30-1977			DATE OF HEARING: November 4, 2004		REPORT NUMBER(S): H-25791/SH			
Defense Counsel: Melody Parker								
DEFENDANT'S PLEA: GUILTY			CHANGE OF PLEA					
ORIGINAL CHARGE(S): ASSAULT IN THE FIRST DEGREE (\$707-710(1), H.R.S.)			CHARGE(S) TO WHICH DEFENDANT PLED: ASSAULT IN THE FIRST DEGREE (\$707-710(1), H.R.S.)					
DEFENDANT IS CONVICTED AND FOUND GUILTY OF: ASSAULT IN THE FIRST DEGREE (\$707-710(1), H.R.S.)			PHOTOGRAPH (If Available)		FINGERPRINT (If Available)			
FINAL JUDGMENT AND SENTENCE OF THE COURT:								
RESTITUTION: \$172,152.00 to ACS Hawaii Medicaid TPL Recovery Unit, jointly and severally with co-defendant, Daniel Vea CRIME VICTIM COMPENSATION FEE: Waived INCARCERATION: TEN (10) YEARS. Sentence shall run consecutive to the sentence imposed in Cr. No. 04-1-208. Defendant shall be given credit for time served of nine (9) months plus any previous credit for time served of approximately four (4) days.			MITTIMUS TO ISSUE IMMEDIATELY					
			 <div style="display: flex; justify-content: space-between;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">D. OKAWA, CLERK THIRD CIRCUIT COURT STATE OF HAWAII</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">2004 NOV - 8 PM 1:54</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">FILED</div> </div>					
						<div style="display: flex; align-items: center;"> <div style="text-align: left; width: 40%;"> DATE NOV 08 2004 nunc pro tunc to November 4, 2004 </div> <div style="text-align: left; width: 40%;"> JUDGE GLENN S. HARA SIGNATURE  </div> <div style="text-align: center; width: 20%;">  </div> </div>		
						NOTICE OF ENTRY THIS JUDGMENT HAS BEEN ENTERED AND COPIES MAILED OR DELIVERED TO ALL PARTIES.		
DATE NOV 08 2004		CLERK J. KAWAKAMI 						

[] ORIGINAL FILE [x] DPA [x] DEFENSE-Melody Parker [x] PROBATION [x] POLICE [] HCJDC [x] PUBLIC SAFETY [x] HPA [x] COUNTY CLERKS